IN THE

Supreme Court of the United States.

OCTOBER TERM, A. D. 1901.

THE SINGER MANUFACTURING COMPANY, Petitioner,

vs.

HERMAN CRAMER, Respondent.

Petition for Writ of Certiorari, etc.

Petition for writ of certiorari to the United States Circuit Court of Appeals for the 9th Circuit, to require said court to certify to the Supreme Court of the United States for its review and determination the case of The Singer Manufacturing Company, plaintiff in error, *vs.* Herman Cramer, defendant in error.

To the Honorable the Supreme Court of the United States:

Your petitioner, the Singer Manufacturing Company, respectfully petitions this Honorable Court that the writ of certiorari may be granted, directing the Circuit Court of Appeals for the 9th Circuit to certify to this Honorable Court for its review and determination, the case of your petitioner, plaintiff in error, *vs.* Herman Cramer, defendant in error, and for reasons therefor respectfully shows to this Honorable Court as follows:

Statement of Facts.

First. Your petitioner is a corporation duly organized and existing under and by virtue of the laws of the State of New Jersey, and having its principal place of business in the City, County and State of New York; and that the defendant in error, Herman Cramer, is a citizen of the state of California and resident thereof.

Second. That the said Herman Cramer filed his complaint against your petitioner in the United States Circuit Court for the Northern District of California at the July term of court in the year of 1896, for an infringement of letters patent granted him under date of January 30, 1883, and numbered 271,426, for a new alleged useful improvement in sewing machine treadles, infringement being alleged only as to the first claim thereof (Record, pp. 1-5), but that in due order of pleading thereafter your petitioner filed a plea of the general issue to said complaint and gave notice in writing of the defenses to be urged in the trial of said case in compliance with the statutes in such case made and provided.

Third. That said case came on for trial on the 28th day of March, 1900, and upon the 20th day of April, 1900, a verdict and judgment was rendered against your petitioner and in favor of the defendant in error for the sum of $12,456 and costs. That a bill of exceptions was duly filed in said cause and a writ of error was allowed. The said writ of error being issued on the 8th day of June, 1900, and served upon the attorney of the defendant in error on the 9th of June, together with the citation, citing and admonishing the defendant in error to appear in the said Circuit Court of Appeals and show cause why the said judgment should not be corrected, and that under said writ of error, the said cause was properly brought

before the Circuit Court of Appeals for the 9th Circuit for review and determination; and that upon the 1st day of September, 1900, a certified transcript of the record and all proceedings of the said court in said case was filed in the Circuit Court of Appeals for the 9th Circuit and the said case was duly entered and docketed in said Circuit Court and entitled the said The Singer Manufacturing Company, complainant in error, *vs.* said Herman Cramer, defendant in error. A certified copy of the entire record of the case in the Circuit Court of Appeals is hereby furnished in conformity with Rule 37 of this Honorable Court relative to cases from Circuit Courts of Appeals, and the same is hereby referred to and marked and identified herewith and made a part of this petition. The said certified printed copy of said entire record of the proceedings in said Circuit Court, including the bill of exceptions, contains all the testimony that was taken upon trial of said case in said circuit. The assignment of errors that was filed by your petitioner contained in said bill of exceptions and they are shown and exhibited upon said pages 811 to 845, inclusive, and are hereby referred to and made part of this petition and application.

Fourth. That the said case came on to be heard in the said Circuit Court of Appeals upon the 5th day of March, 1901, before the Honorable Circuit Judges Gilbert and Ross and the Honorable District Judge Hawley, and upon the 13th day of May, 1901, the said Circuit Court of Appeals rendered a judgment affirming the said judgment of said Circuit Court; that said Circuit Court of Appeals filed an opinion and decision in writing, the closing paragraph of which contained an order that the judgment of the Circuit Court must be affirmed with costs; said opinion and decision are contained in the certified copy of the

record of the said Court of Appeals at pages 854 to 869, inclusive, and the same is hereby referred to and made a part of this petition. That shortly thereafter your petitioner filed a petition for rehearing, and that upon the 15th day of November, 1901, said petition was denied by the said Circuit Court of Appeals for the 9th Circuit, but the mandate in said case has been stayed until the 15th day of January, 1902, for your petitioner to file this, its petition for writ of certiorari.

Fifth. Your petitioner is advised and so believes that the said judgment and finding of the said Circuit Court of Appeals in the said cause in sustaining the judgment of the court at the Circuit; and the judgment of the court at the Circuit, are erroneous, without legal justification and contrary to all the rules, decisions and principles of law laid down by this Honorable Court and found upon the statute books applicable to such causes; and that this Honorable Court should require the said case to be certified to it for its review and determination under and in accordance with the sixth section of the act of Congress, entitled "An Act to Establish Circuit "Court of Appeals," and to define and regulate certain cases, the jurisdiction of the courts of the United States and for other purposes, approved March 3rd, 1891, the said case being made final in the Circuit Court of Appeals by said act, except for the interposition and rightful recognition by this Honorable Court as herein prayed.

Grounds and Gravamen of and for This Petition for Writ of Certiorari;—Aligned and Epitomized.

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(1) This petition should be granted because the exact and precise subject-matter contemplated by this petition, namely, the validity of the Cramer patent of January 30, 1883, No. 271,426, for an alleged improvement in sewing machine treadles, and the question of infringement thereof by petitioner, has been before three several Circuit Courts upon three separate trials in actions at law, before three several respective juries, and against petitioner's same mechanical devices in each suit, and the patent so construed in each case as to bar any finding, otherwise than of non-infringement.

In two of such cases, namely, the case of *Cramer* v. *Fry*, your petitioner's agent, tried before his Honor, Judge Joseph McKenna, and the case of Cramer against your petitioner, tried in the first instance before his Honor, Judge James H. Beatty, the patent was construed by the court, your petitioner's device found not to infringe, and the jury instructed to return a verdict for your petitioner.

In the trial of the above case against your petitioner the instruction of the court, Judge Beatty, to the jury to so find, was based primarily upon the proposition that your petitioner openly defended its agent Fry and was protected by the judgment, but your petitioner's motion before his Honor Judge Beatty to instruct the jury to find for your petitioner, was based not only upon the fact that your petitioner had defended its former agent, Willis B. Fry, in the action of the respondent, Cramer, against

him, but upon the same ground as appears by the instruction of Judge McKenna, namely, that your petitioner did not infringe; and his Honor Judge Beatty construed the patent as it was construed by Judge McKenna and independently of Judge McKenna's construction, and would have so instructed a verdict for petitioner in the case before him, if he had not ordered a verdict for your petitioner upon the ground just indicated—as appears by the following quotation from the records of the United States Official Reporter, Mr. Clement Bennett, now on file in said case, as follows:

"THE COURT: I take it from the evidence already "offered, that this is the same case tried before. My mind "is made up upon that. If the record does not show that, "you might be permitted to show it. But I have made up "my mind that this is the same case that was tried before. "I have looked over the old case, and think the patents "introduced there are the same as those introduced here. "The same evidence is introduced here that was intro- "duced before. I could not well determine that without "going over the whole evidence.

. . . . . .

"MR. WHEATON: The decision of Judge McKenna is "upon file, and I wish to put that in also.

"THE COURT: Yes, I think it is on file. I may sug- "gest that while I have decided this question simply on "what I deem to be the law applicable to it, uninfluenced "by that decision, yet if you went through with the trial "of the case and introduced all your evidence, I do not "see what I could do but to instruct the jury finally to "find a verdict for the defendant, and thus reach the "same conclusion we reach by the introduction of this "judgment roll."

The "judgment roll" here referred to by Judge Beatty being the judgment on verdict for your petitioner instructed by Judge McKenna upon the ground of non-infringement. (Record, p. 667.)

In the trial of the present case before his Honor Judge Morrow, his Honor Judge Morrow agreed with Judge McKenna that the Cramer patent in suit was a narrow patent, and with the views of his Honor Judge McKenna upon this proposition, the exact language of Judge Morrow to this effect being as follows:

"JUDGE MCKENNA IN THAT CASE HELD THAT THIS WAS "A NARROW PATENT. I CONCUR WITH HIS VIEWS UPON "THAT PROPOSITION." (Record, p. 740.)

Your petitioner respectfully submitting that it is the veriest travesty upon every rule of construction laid down by this Honorable Court as governing and interpreting letters patent to find that the Cramer patent in suit was a narrow patent, and so finding, to permit any question of infringement thereof to be submitted to any jury, the identification of the patent as a narrow one leaving no question of fact possible to go to the jury as against your petitioner's device proceeded against, being a device of the same precise character and construction present in each of the three cases and trials, your petitioner averring that in no other case or cases except the three separate trials in the United States Circuit Court for the Northern District of California before his Honor Judge McKenna, his Honor Judge Beatty, and his Honor Judge Morrow, has the validity of the Cramer patent been at issue or passed upon, or any question of infringement decided in relation thereto, excepting further, of course, this case in the Court of Appeals.

(2) The vast sums of money claimed to be due by the respondent Cramer of your petitioner by reason of this patent and the jury verdict in this case, and the peril to your petitioner's entire property, assets and business, under claims made by reason of this jury finding, would seem to make this petition worthy of consideration at the hands of this court upon this ground alone, as a matter of gravity and importance; certainly so to your petitioner.

The judgment in this case, it is true, is only for the sum of twelve thousand four hundred and fifty-six dollars. This judgment, as appears by the record, covers only asserted acts of infringement committed in the Northern District of California and within a certain prescribed time. Since the rendition of such judgment the respondent Cramer has brought five additional actions at law against your petitioner: One in the United States Circuit Court for the Northern District of California; one in the United States Circuit Court for the District of Washington; one in the United States Circuit Court for the District of Oregon; another in the United States Circuit Court for the Southern District of California; and still another in the United States Circuit Court for the Southern District of New York, confining the allegations of acts of infringement to the respective Districts. The aggregate amount of damages asked of your petitioner in these suits under this patent, closely approximating two millions of dollars, your petitioner averring that the declarations or complaints in these five suits, respectively, are printed in form and that the counsel for said respondent in all of these declarations or petitions openly threatens to bring separate and inde-

pendent suits in every District of the United States against your petitioner for damages for the infringement of said Cramer patent, confining each allegation of infringement as committed in each separate District, and to put your petitioner to trial of as many cases as there are Districts in the United States. Your petitioner averring that in each of the printed declarations or complaints so filed against your petitioner as aforesaid, there is contained the allegation and averment in substance and conclusion that in the above and pending case in which this petition for writ of certiorari is filed, all facts of the validity of the patent in suit have been adjudicated against your petitioner and all facts as to the infringement of said patent so adjudicated, and that there is nothing left but to assess the claimed damages against your petitioner as fixed and found by the jury in the action in which this petition is presented. And further, that said respondent Cramer in each of said declarations or complaints filed against your petitioner since the entry of the judgment verdict in this case asks and demands three times the amount of the damages found by the respective juries, besides the costs of the respective suits, plainly amounting, if such demands are recognized and enforced, to a sum equal to many millions of dollars, a substantial proportion of the entire property assets of your petitioner.

(3) **Your petitioner further respectfully submits that this petition should be allowed because manifestly and plainly upon a study and examination of the Cramer patent in suit and upon the face of the patent itself and the first claim thereof alleged alone to be infringed by your petitioner, and a comparison of this patent with the combined cross-bar, vertical brace, loop and treadle casting and ar-**

rangement of your petitioner as shown by the Diehl patent; there cannot be possibly found or exist any infringement by your petitioner of the first claim of this patent.

Your petitioner takes it that this Cramer patent is directed to the sewing machine manufacturing industry and must be intended to be understood by those carrying on that industry. The statement and terms of the patent are perfectly plain and apparently easy to understand, and your petitioner understands and believes that every other sewing machine manufacturer in the United States would so understand and nothing otherwise than that this Cramer patent related to a particular and peculiar mechanical construction and arrangement of treadle and alliance therewith through certain peculiarities of formation, with holes in the lower depending ends of the cross-brace of the sewing machine to serve as bearings. Every sentence and line of the patent emphasizes and makes certain this fact and condition and the first claim points out with great particularity the specific construction and arrangement necessary to meet and conform with the statements in the specification part of the patent and illustrated in the drawings. There can certainly be found nothing to a sewing machine manufacturer to indicate that this Cramer patent or its patentee had any thought or idea, purpose or object, or considered the invention of his patent otherwise than a specific detail construction and arrangement of parts allied together as set forth in the specification and particularized and pointed out and made certain in the claims, and as so identified in this Cramer patent. There is found totally absent in your petitioner's sewing machine construction every element or part, both as to function and result, going to

make up the first claim of the Cramer patent, there being absent from your petitioner's device any holes or openings whatever through the lower end of your petitioner's cross-brace to serve as bearings for any purpose, there being totally absent from your petitioner's device any treadle provided with any trunnions whatever, and there being wholly absent from your petitioner's device any treadle of any description fitted to oscillate in any bearings whatever, except your petitioner's screw-point centers in your petitioner's treadle itself, your petitioner's treadle being as a matter of fact hung in offsets in the old common cross-bar and such cross-bar, then united as a single casting with the old common double vertical brace.

The Cramer patent in suit is found as "Exhibit A" upon Record, pp. 63, 64; and the Diehl patent, admittedly representing petitioner's machine in all three of the separate trials and cases, is found upon Record, pp. 166, 167, 168. The file-wrapper and contents of the Cramer patent being found upon pp. 365 to 376, inclusive, of the Record.

(4) Your petitioner further urgently submits and contends that this petition should be granted because the file-wrapper and contents of the respondent Cramer's patent so defines and limits this alleged invention of Cramer as set forth and elucidated in the opinion of his Honor Judge McKenna that there can be no possible construction given to this Cramer patent by reason of the statements and proceedings disclosed by the file-wrapper and contents, as to authorize or permit the finding that your petitioner's device infringes the first claim of said patent.

As to the matter just indicated your petitioner alleges

that he is informed by counsel supposedly learned as to such matters, and so believes, that the statements of the respondent Cramer and of his patent solicitors in the various proceedings in the Patent Office relating to his alleged invention before the grant of the patent and as a part thereof so identifies and defines and makes certain all there is or can be to this supposed Cramer device and invention, that so understanding the same there can be no possible contention that the device of your petitioner bears any relation to said first claim or can by any possible rightful construction put upon it infringe the same. Your petitioner cannot from any reading or understanding of the so-called file-wrapper and contents of the patent as appearing in said papers themselves and as set forth in the opinion of Judge McKenna, see or understand how any conclusion as to matters of equity, mechanical facts, and application, can be arrived at, otherwise than appears in the careful and extended decision of his Honor Judge McKenna, and by the concise statement of this fact and finding by his Honor Judge Beatty.

The decision of Judge McKenna, with the Cramer patent and specification printed therein in full and an illustration of defendant's machine alleged to infringe said patent, being found in the case of *Cramer* v. *Fry*, 68 F. R., 201-212, inclusive. The fact being in brief, as your petitioner understands and believes, that there is a direct conflict of opinion and finding as to the construction of respondent Cramer's patent between Judges McKenna, Beatty and Morrow at the Circuit, and Judges Gilbert, Ross and Hawley upon the Court of Appeals; two of said judges at the Circuit, Judges McKenna and Beatty, construing the patent and finding that under such construction there can be no possible infringement; one of said judges, Judge Morrow, construing the patent as narrow

and then illogically and unjustifiably submitting the question of infringement to the jury, and three of said judges, Gilbert, Ross and Hawley upon the Court of Appeals, construing said patent as broad and basic and finding infringement thereof.

(5) The petition should be granted because the testimony shows that neither respondent Cramer nor his business suffered any damage or injury whatever, by reason of any act of asserted infringement of your petitioner; and that as a matter of fact in the sale of petitioner's sewing machines in the Northern District of California prior to and during the time the respondent Cramer claims he was damaged, such sale was of great advantage to said respondent Cramer and his alleged invention, if that invention was of the slightest practical value.

The testimony of the respondent Cramer and that of his only supporting witnesses, his son and daughter, shows that Cramer upon two occasions only had made castings of the treadle devices of his patent, the first set of such castings being four or five in number, being made in the year 1881 (Record, p. 160), the second set of such castings being made in the year 1883 (Record, 158); that Cramer himself never made sewing machines, and the only use he ever made of his invention or these castings was to take out the usual braces found in second-hand sewing machines of different manufacturers and to substitute therefor his patented braces (Record, p. 81 and p. 160); that he "got or charged five dollars more" for the second-hand machines in which he put his patented braces

and that he paid from five dollars up for such second-hand sewing machines; that he had used up all of his last set of castings and all of his castings by the year 1884 or 1885 (Record, 83); that he only sold altogether *"between twenty-five and forty machines"* with his patent brace. (Record, p. 151.) There is no proof in the record from any party to whom he ever sold any sewing machine with his patented brace thereon, nor was any such sewing machine produced at any of the trials. It is true that Cramer did swear that he continued to put in his patent brace until your petitioner came up into that part of the country and drove him out with their machines, which he now asserts is an infringement of his patent; but it is perfectly evident that this statement of Cramer was a mere bald conclusion and not a statement of fact and was made solely for its influence upon and to the jury. The undisputed facts show that between the years 1881 and 1885 Cramer by his own statement never had by his two acts or sets of castings, one at San Francisco and one at Sonora, more than thirty-five or forty of his patent treadles. As to the first set he swears he put them in and they were disposed of within a few weeks; as to the second set of castings there can be nothing more certain than that such castings were incorporated in second-hand machines through the years 1882, 1883 and 1884, and no other attempt was ever made by Cramer to utilize his invention; manifestly because there was no demand for such a device, and its utilization would have been impossible under any circumstances other than by the forced alliance by said respondent Cramer of his patented device with second-hand machines purchased by him, and whether or not he sold such machines for five dollars more than otherwise is based entirely upon his own statement twenty years after the event without the slightest corroboration from any

party ever purchasing or using any such second-hand revamped machine from him. The fact being that your petitioner never sold or had one of its sewing machines now claimed as an infringement in the State of California until nearly two years after Cramer had ceased or had put in the last of his patented braces. (Record, pp. 541-542.)

The fact being also that between the years 1881 and 1885 (the time when Cramer says he was putting in his forty cast braces in old machines) the Singer Company sold thousands of sewing machines in his county, with braces and treadles independent; and thus furnished a market for Cramer's brace if it was of any value.

(6) Your petitioner urges also that good ground exists for the granting of this petition because there is present two claims in the Cramer patent in suit, the first only alleged to be infringed, and admittedly by Cramer the asserted forty braces made and put in by him between 1881 and 1885 in second-hand sewing machines, contained the inventions of both claims, and there is no proof in this record to show that "the five dollars got or charged" by him for his brace so put in related to the mechanism of the first claim more than the mechanism of the second claim, thus leaving no guide or rule whatever for the jury verdict.

It certainly appears by the terms of the Cramer patent that a mechanism represented by the first claim would be practically worthless and unsalable unless supplemented by the mechanism of the second claim, because this mechanism "prevents the noise which would result were the "trunnions permitted to bounce and thump endwise when "the treadle is in motion." It is not contended that your

petitioner's sewing machine infringes this second claim, and by the admissions of the patent it would seem to follow that the devices of the first claim were worthless in a sewing machine without the controlling devices allied therewith pointed out in the patent in the second claim; and your petitioner therefore contends that there is absent from this record all proof as to any damage done the respondent Cramer or any rule of proof under which any damage could be assessed upon the evidence as submitted by the respondent himself as to this matter.

(7) Your petitioner respectfully submits that this petition should be granted and your petitioner relieved from this judgment and the incalculable damage that will follow from it, as above indicated, because the hanging of your petitioner's treadle upon point center screws in an off-set in the cross-bar of your petitioner's machine as combined with the band wheel loop and brace, as shown by the Diehl patent of October 14, 1894, No. 306,469, is a mere accident and incident of construction with no other object or purpose than to utilize a unit, concrete, casting structure, carrying the treadle and band-wheel, and assuring a desired alignment and fixed relation between these moving parts.

The undisputed testimony in this case shows that up to a certain time, namely, about the year 1886 or 1887, as to its sewing machines sold in California, your petitioner hung the treadle in the usual way in the legs of the sewing machine, and in the manner substantially shown in its present construction upon point center screws; that some time before the date last given one of its foremen in its manufacturing department, Mr. Philip Diehl, made

the invention represented by the Diehl patent above and placed it thereafter in the sewing machine stands of your petitioner, contending that his invention was one largely belonging to the art of the casting of iron, and that it had for its object, as a matter of fact, and as shown by the patent and repeatedly stated therein, to provide a casting for containing and supporting both the band-wheel and treadle, so that when the band-wheel with its driving crank and the treadle have been hung within this casting and connected by a suitable pitman, their adjustment to, and relationship with, each other, are practically permanently secured, your petitioner respectfully submitting that such construction does not and cannot bear any relation to the mechanical device of the Cramer patent in suit, either as to the objects of the device itself or the described and patented means for carrying out such object.

(8) The petition should be granted because the alleged invention of the respondent Cramer, as claimed by himself, namely, the hanging of sewing machine treadle in the cross-brace, is without any practical value, advantage or utility, and is so shown by the testimony.

The testimony of the respondent Cramer in this case and of all the witnesses, shows that aside from your petitioner, with one or two minor exceptions, all of the principal sewing machine manufacturers of the United States hang their treadle independent of the cross-brace and usually at the lower ends thereof directly in or upon the legs of the sewing machine, and that this is the preferred mechanical arrangement for so doing and has been for a third of a century past, and that such location of the treadle is the most satisfactory and practical mechanical

construction and arrangement shown. The respondent Cramer admitted the main fact upon the stand (Record, pp. 163-164), and the principal representatives of the different manufacturers of the United States so testified (Record, pp. 502, 547, 565), and as entirely confirmatory of the truth of this statement, your petitioner states that since the expiration of the Cramer patent some two years ago none of the sewing machine manufacturers of the United States have altered or changed the manner of hanging their treadle in or upon the legs of the sewing machine in the slightest respect.

(9) This petition for writ of certiorari should be granted because the defense by your petitioner of its agent Fry, in the Cramer-Fry suit, tried before and decided by his Honor Judge McKenna by an instruction to the jury to find for the defendant upon the ground of non-infringement—was an open defense made by your petitioner wherein your petitioner paid all costs of such litigation and counsel fees, and such facts were known by respondent Cramer's counsel in that case, as appears by positive proof shown and offered in this case.

As we have above shown, his Honor Judge Beatty upon the first trial of this case against your petitioner instructed the jury to find for your petitioner upon the ground primarily that your petitioner was back of and defended its agent Fry, and the patent being the same and the alleged infringement being the same in that case as in the case against Fry, the matter was *res adjudicata* as to your petitioner. The Court of Appeals, however, for the Ninth

Circuit reversed this finding because in their opinion it was not shown that the defense by your petitioner of its agent Fry was an open defense and known to respondent Cramer. Thereupon your petitioner filed its petition for writ of certiorari from this decision directed to this Honorable Court to the October Term, 1898, upon the ground that upon the record as made and then present, the fact was disclosed and made clear that your petitioner defended its agent Fry openly to the knowledge of the respondent Cramer—but the petition was denied by this Honorable Court without opinion given therefor, but as your petitioner understands upon the point made by respondent's counsel in submitted brief, that only judgments in Circuit Courts of Appeal can be reviewed in this court by writ of certiorari when such judgments are final, within the meaning and intent of Section 6 of the Act authorizing the granting of writs of certiorari, and that the decision of the Circuit Court of Appeals simply upon this point was not final and only in effect remanded the case for a new trial. Your petitioner respectfully states and represents, however, that it not only appears in this case that your petitioner openly defended its agent Fry and paid all the costs and expenses of such defense and special counsel and experts in the making thereof, but that such defense was known to respondent Cramer's counsel at that time, your petitioner offering directly and positively to so prove under the sustained objection thereto of respondent Cramer's counsel.

Your petitioner further and finally respectfully submits that all of the grounds, reasons and matters asserted and appearing herein for the granting of this petition are duly authorized, raised and presented by the bill of exceptions, assignment of errors, etc., in due and proper order and

place, as appears by a certified copy of the record of the entire case and proceedings here present, and as your petitioner understands will be more carefully and succintly pointed out in an accompanying brief by petitioner's counsel filed herein and herewith; that your petitioner has not understood that it would be expected in this petition for your petitioner to state all of the facts and propositions in detail that will be relied upon in support of this petition if granted, and that your petitioner has therefore only stated the salient points, positions, reasons and facts upon which this petition is based and founded.

Wherefore, your petitioner respectfully prays and petitions that a writ of certiorari may be issued out of and under the seal of this court, directed to the United States Circuit Court of Appeals for the 9th Circuit, commanding said court to certify and send to this court on a certain day to be therein designated, a full and complete transcript of the record and all proceedings of the said Court of Appeals in the case therein entitled The Singer Manufacturing Company, plaintiff in error, vs. Herman Cramer, defendant in error, No. 638, as identified by the transcript of the record, and to cease and withhold any further action or order in said case until the further order of this court, to the end that the case may be reviewed and determined by this court as provided by Section 6 of the Act of Congress, entitled "An Act to establish Circuit Courts of Ap- "peals and to define and regulate in certain cases the juris- "diction of the courts of the United States and for other "purposes." Approved March 3rd, 1891; and that your petitioner may have such other and further relief or remedy in the premises as to this court may seem appropriate and in conformity with said act, and that the judgment and finding of said Circuit Court of Appeals in this

case and every part thereof may be reversed by this Honorable Court.

And your petitioner will ever pray, etc.

THE SINGER MANUFACTURING COMPANY,
By FREDERICK G. BOURNE,
President.

CHARLES K. OFFIELD,
MILTON A. WHEATON,
Counsel for Petitioner.

UNITED STATES OF AMERICA,
SOUTHERN DISTRICT OF NEW YORK. } ss.

FREDERICK G. BOURNE, being first duly sworn, states that he is president of the above named petitioner, The Singer Manufacturing Company, and as such president has full knowledge of its business affairs and particular knowledge of the matters and things set forth in the above petition and of the conduct and proceedings in the above-entitled action; that he has read the foregoing petition subscribed by him and knows the contents thereof, and that the facts therein stated are true, except as stated upon information and belief, and as to such statements he believes the same to be true.

FREDERICK G. BOURNE.

Subscribed and sworn to before me this
23d day of December, A. D. 1901.

Edward E Black
Notary Public.

I hereby certify that I have examined the foregoing petition and that in my opinion the petition is well founded as to matters of fact and as to matters of law, and that the case identified thereby is one, and is such, that the prayer of the petition should be granted by this Honorable Court.

CHARLES K. OFFIELD.